



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------------|---------------------|------------------|
| 10/749,696   | 12/31/2003  | Lorrie A. Creveling         | 20655.0600          | 2179             |
| 66170 7590 06/10/2010<br>Snell & Wilmer L.L.P. (AMEX)<br>ONE ARIZONA CENTER<br>400 E. VAN BUREN STREET<br>PHOENIX, AZ 85004-2202 |             |                             |                     |                  |
| EXAMINER<br>GREGG, MARY M  |             |                             |                     |                  |
| ART UNIT<br>3694   |             | PAPER NUMBER                |                     |                  |
| NOTIFICATION DATE<br>06/10/2010  |             | DELIVERY MODE<br>ELECTRONIC |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

HSOBELMAN@SWLAW.COM  
DMIER@SWLAW.COM  
JESLICK@SWLAW.COM

### Office Action Summary

**Application No.**

10/749,696

**Applicant(s)**

CREVELING ET AL.

**Examiner**

MARY GREGG

**Art Unit**

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2010.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 16-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 and 16-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. The following is a Final Office Action in response to communications received April 07, 2010. Claim 15 has been canceled. Claims 1, 4, 6-7, 9-11, 14, 17-20 and 23 have been amended. No new claims have been added. Therefore, claims 1-14 and 16-23 are pending and addressed below.

***Response to Amendments/Arguments***

***Claim Rejections - 35 USC § 103***

2. Applicant's arguments with respect to claims 1-14 and 16-23 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**5. Claims 1-2, 6-11, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,154,729 to Cannon (Cannon) in view of US Patent Publication 200210099649 by Lee (Lee) and further in view of US Patent No. 7,356,516 B2 Richey et al (Rich).**

In reference to Claim 1:

Cannon teaches:

(Currently Amended) A method for processing credit transactions, comprising: identifying by a computer-based system, ...a merchant with a disputed credit transaction in a period of time, wherein a predetermined threshold ratio of disputed credit transactions to total credit transactions is stored for the period of time; (see col 3, lines 45-65, note that merchants with 'excessive' chargebacks are listed on the report); determining by the computer-based system a number of the disputed credit transactions and a number of credit transactions involving the merchant in the period of time (see col 3, lines 45-65, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions); determining by the computer-based system, a ratio of the number of disputed credit transactions to the number of credit transactions for the merchant (see col 3, lines 45-65, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions);

Cannon suggest but does not explicitly teach:

...assessing by the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold

ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio; and wherein the predetermined threshold ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant ((Cannon) in at least Col 3 lines 28-55, Col 4 lines 43-55, Col 7 lines 48-53; note that the prior art teaches credit exceed credit risk for chargebacks and explicitly teaches information provides chargebacks as a percentage of sales which fairly suggest that the merchants sales exception report incorporates merchant exceeding merchant's ratio)

Lee teaches:

...for assessing a fee ((Lee) para 0019),... assessing by the computer-based system, a fee against the merchant for each disputed transaction ((Lee) para 0019 line 1) involving the merchant that exceeds the predetermined threshold ratio ((Lee) para 0019), in response to the merchant's ratio being at least equal to the predetermined threshold ratio (see par 19, note that both a fee per chargeback and a fine for too many chargebacks (i.e. typically 1.5-3% of volume) are both taught. The combination of these methods of penalizing chargebacks fairly suggests charging a fee for each transaction that exceeds a threshold in so far as the fee per charge back suggests the 'for each' component and the fine for having too many suggests applying the fee above a threshold), ; ...

Rich teaches:

...for assessing a fee ((Rich) Col 5 lines 28-33, Col 16 lines 50-58, Col 18 lines 54-59, Col 21 lines 60-67, Col 22 lines 28-41) ,...wherein the predetermined threshold

ratio is set based on, at least, a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant. (Rich) in at least FIG. 5, FIG. 7; Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44).

Both Cannon and Lee are directed toward management of transactions. Lee teaches the motivation of providing an incentive for merchants to reduce chargebacks in order to reduce cost and risk. It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided Cannon with the fee and fine features of Lee in order to have provided merchants with an incentive to take action to reduce chargebacks as taught implicitly by Lee since fines escalate if chargebacks continue unabated.

The combination and Rich are explicitly directed toward transaction disputes. Rich teaches itemizing information with respect to a dispute in order to determine the legitimacy of the disputed transaction (see in at least Col 5 lines 5-10). The prior art provides some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify (*applying a known technique to a known device (method, or product) ready for improvement to yield predictable results*) the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. See MPEP § 214.3

In reference to Claim 2:

The combination teaches:

(Previously Presented) The method of claim 1 (see rejection of claim 1 above), wherein the period of time comprises thirty days (see Cannon col 3, lines 35-45 and col 4, lines 43-57, note the teaching of a monthly reporting cycle).

In reference to Claim 6:

The combination teaches:

(Currently amended) The method of claim 1 (see rejection of claim 1 above), further comprising: establishing, by the computer based system, the predetermined threshold ratio based on a second faction comprising an average transaction volume of the merchant (See Cannon col 3, lines 45-55 and col 4, lines 43- 57, note that ratio relates chargebacks to transactions. As such, it is fairly suggested that establishment of the ratio is based upon the transaction volume of the merchant since the volume is the factor by which the standard for 'excessive' is defined) (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 7:

The combination teaches:

(Currently amended) The method of claim 1 (see rejection of claim 1 above), further comprising: determining, by the computer based system, a number of time periods in which the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant is at least equal to the predetermined threshold value (see Lee par 19- 21), wherein a threshold number of time periods is stored in which the ratio of disputed credit transactions to total credit transactions may exceed the predetermined threshold ratio (see Lee in at least para 0019; note that Lee teaches

the after months of escalating fines, the merchant may lose the privilege of receiving payment through credit card issuers. As such, this fairly teaches a second threshold based upon the length of time the merchant exceeds the predetermined threshold. Note further that a second threshold based on time is also an obvious duplication of the threshold taught by Cannon above, particularly in view of the time based penalty of Lee); and further assessing, by the computer-based system, the chargeback fee against the merchant only for each disputed transaction that exceeds the predetermined threshold ratio, in response to the ratio being at least equal to the predetermined threshold ratio for the period of time and the number of time periods for the merchant is at least equal to the threshold number of time periods (see Lee para 19, note that penalizing a merchant with fines is known and when combined with the period of time measure taught by Lee fairly suggests charging a fine based upon the number of time periods the merchant exceeds the threshold).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 8:

The combination teaches:

(Original) The method of claim 7 (see rejection of claim 7 above), wherein the threshold number of time periods is greater than one (see Lee par 21, note that the second threshold of Lee is reached after 'months' of escalating fines).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 9:

The combination teaches:



(Currently amended) The method of claim 8 (see rejection of claim 8 above), further comprising, before the assessing: generating, by the computer-based system, a notice for transmission to the merchant in response to the number of time periods for the merchant is greater than zero and less than the threshold number of time periods, the notice including: the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant, the predetermined threshold ratio, the number of time periods for the merchant and the threshold number of time periods (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice. (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 10:

The combination teaches:

(Currently Amended) The method of claim 9 (see rejection of claim 9 above), further comprising: transmitting, by the comuter-based system, the notice to the merchant (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice to the merchant). (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 11:

The combination teaches:

(Currently Amended) The method of claim 8 (see rejection of claim 8 above), further comprising: generating, by the computer-based system a notice for transmission

to the merchant when the number of time periods for the merchant being greater than zero and less than the threshold number of time periods, the notice including at least proposed business solution for reducing the number of disputed credit transactions involving the merchant (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice. Note that the contents of the claimed notice have been considered, but are non-functional descriptive material in so far as the notice could contain any material and the claimed invention would still operate the same. As such, the contents of the notice have not been given patentable weight so as to distinguish Applicant's claimed invention from the prior art). (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 13:

The combination teaches:

(Previously Presented) The method of claim 7 (see rejection of claim 7 above), wherein the threshold number of time periods comprising comprises a threshold number of consecutive time periods (see Lee par 21, note that the second threshold of Lee is reached after 'months' of escalating fines).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 21:

The combination teaches:

(Previously presented) The method of claim 1 (see rejection of claim 1 above), wherein the predetermined threshold ratio is lower for higher value transactions ((Lee)

para 0127; wherein Le teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

6. **Claims 3-5, 12, 14-20 and 22-23 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable Cannon in view of US Patent Applicant Publication 2002/0099649 by Lee and US Patent No. 7,356,516 B2 Richey et al (Rich), as applied to claim 1 above with respect to claims 3-5; as applied to claims 1 and 7 above with respect to claim 12; and in further view of US Patent Application Publication 2004/0030644 to Sharper (Sharper).**

In reference to Claim 3:

The combination teaches:

(Currently amended) The method of claim 1 (see rejection of claim 1 above)...

The combination does not explicitly teach:

...wherein the predetermined threshold ratio comprises a second factor of three percent.

Sharper teaches:

...wherein the predetermined threshold ratio comprises a second factor of three percent (see par 10, note that a limit may be set at 1-3%) It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided

Cannon in view of Lee with the particular threshold level taught by Sharper in order to have limited the percentage of chargebacks allowed to merchants as taught explicitly by Sharper (see par 10).

In reference to Claim 4:

The combination suggest/teaches:

(Currently Amended) The method of claim 1 (see rejection of claim 1 above), further comprising: establishing, by the computer-based system, the predetermined threshold ratio based on a second factor comprising: an industry category including the merchant. ((Lee) para 0346)

Sharper teaches:

...establishing the predetermined threshold ratio based on a second factor comprising an industry category including the merchant (see par 11, note that chargeback characteristics vary from industry to industry. A ratio based on industry category is thus fairly suggested to accommodate the differences between industries). It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided Cannon in view of Lee with that industry differentiation of Sharper in order to have matched the risk of an industry with the level of fine as taught implicitly by Sharper since Sharper teaches the incidence of chargebacks varies across industries.

In reference to Claim 5:

The combination teaches:

(Previously Presented) The method of claim 4 (see rejection of claim 4 above), wherein the industry category comprising comprises a standard industrial classification code (see Lee par 101, note that the transaction summary variables include SIC codes, thus fairly suggesting their use in identifying the industry of the transaction). (see rationale supporting obviousness and motivation to combine of claim 4 above)

In reference to Claim 12:

The combination teaches:

(Original) The method of claim 7 (see rejection of claim 7 above), wherein the threshold number of time periods is based on an industry category including the merchant (see par 11, note that chargeback characteristics vary from industry to industry. A ratio based on industry category is thus fairly suggested to accommodate the differences between industries). (see rationale supporting obviousness and motivation to combine of claim 4 above)

In reference to Claim 14:

Cannon teaches:

(Currently Amended) A method comprising: calculating, by a computer-based system, for assessing a fee, a ratio of disputed credit transactions to total credit transactions (see Cannon, col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions) for each of a plurality of industry categories for a previous period of time (see Sharper, par 11, note that chargeback characteristics vary from industry to industry. A ratio based on industry category is thus fairly suggested to accommodate the differences between industries);

determining, by the computer-based system a first threshold ratio for a first of the industry categories based on a first factor comprising said calculating (see Cannon, col lines 3, lines 45-55 in combination with Sharper par 11, note that a threshold ratio is fairly suggested by the teaching that vendors with 'excessive' chargeback ratios are listed. The suggestion is fairly made by the need for there to be a measure i.e. the predetermined threshold ratio for determining what is 'excessive', note further the industry discussion of Sharper above; see in at least para 0019; note that multiple parameters may utilized to increase security and control behaviour) determining by the computer-based system, second threshold ratio, lower than the first threshold ratio, for a second of the industry categories based on the first factor, the second of the industry categories having a lower ratio of disputed credit transaction to total credit transactions in the previous period of time than the first of the industry categories (see Cannon, col 3, lines 4,5-55 in combination with Sharper par 11, note that a plurality of threshold ratios is fairly suggested by the combination of these teachings since Sharper teaches that chargeback characteristics vary from industry to industry) determining a ratio of disputed credit transactions to total credit transactions for a merchant ((Cannon) Col 3 lines 4,5-65) in the first of the industry categories ((Lee) para 0019, para 0346; wherein banks levy fines for merchants having two many chargeback and further teaches product, customer, business and merchant are risk determinants; ((Sharper) para 0011; wherein chargeback vary from industry to industry which would make obvious that ratio would be relevant to industry)); and assessing, by the computer-based system, a fee in response to the ratio of disputed credit transactions to total credit transactions is at least

equal to the first threshold ratio ((Lee) para 0019; ((Rich) in at least FIG. 5, FIG. 7; Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44); and wherein the first and second threshold ratios are set based on, at least, a second factor comprising a transaction value amount of each of the disputed credit transactions of the merchant ((Rich) in at least FIG. 5, FIG. 7; Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44; Rich teaches itemizing information with respect to a dispute in order to determine the legitimacy of the disputed transaction (see in at least Col 5 lines 5-10). (See rationale supporting obviousness and motivation to combine of claims 1 and 4 above).

In reference to Claim 16:

The combination teaches:

(Previously presented) The method of claim 14 (see rejection of claim 14 above), wherein the fee is assessed for each disputed credit transaction that exceeds the first threshold ratio (see Lee par 19, note that both a fee per chargeback and a fine for too many chargebacks are both taught. The combination of these methods of penalizing chargebacks fairly suggests charging a fee for each transaction that exceeds a threshold in so far as the fee per charge back suggests the 'for each' component and the fine for having too many suggests applying the fee above a threshold). (see rationale supporting obviousness and motivation to combine of claims 1 and 4 above).

In reference to Claim 17:

The combination teaches:

(Previously Presented) The method of claim 14 (see rejection of claim 14 above), further comprising determining a first threshold number of time periods in which the ratio of disputed credit transactions to total credit transactions for a merchant in the first of the industry categories exceeds the first threshold ratio, based on said calculating (see Lee par 19-21, note that Lee teaches the after months of escalating fines, the merchant may lose the privilege of receiving payment through credit card issuers. As such, this fairly teaches a second threshold based upon the length of time the merchant exceeds the predetermined threshold. Note further that a second threshold based on time is also an obvious duplication of the threshold taught by Cannon above, particularly in view of the time based penalty of Lee, see also Sharper par 11 ); and determining a second threshold number of time periods, lower than the first threshold number of time periods, in which the ratio of disputed credit transactions to total credit transactions for a merchant in the second of the industry categories may exceed the second threshold ratio, based on said calculating (see Lee par 19-21 and Sharper par 11). (see rationale supporting obviousness and motivation to combine of claims 1 and 4 above)

In reference to Claim 18:

The combination teaches:

(Currently Amended) The method of claim 17 (See rejection of claim 17 above), further comprising: determining, by the computer-based system, a ratio of disputed credit transactions to total credit transactions for the merchant for a plurality of previous



time periods (see Cannon col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions and Lee par 18-21); determining, by the computer-based system, a number of time periods in which the ratio of disputed credit transactions to total credit transactions of the merchant is greater than the first threshold ratio (see Cannon col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions and Lee par 18-21 ); and assessing, by the computer-based system, a fee in response to the merchant's current ratio of disputed credit transactions to total credit transactions is at least equal to the first threshold ratio and the number of time periods for the merchant is at least equal to the first threshold number of time periods (see Lee see Lee par 19 in combination with 21, note that penalizing a merchant with fines is known and when combined with the period of time measure taught by Lee fairly suggests charging a fine based upon the number of time periods the merchant exceeds the threshold) (see rationale supporting obviousness and motivation to combine of claims 1 and 4 above)

In reference to Claim 19:

The combination teaches:

(Currently Amended) The method of claim 18 (see rejection of claim 18 above), further comprising: generating a notice for transmission to the merchant in response to the merchant's current ratio of disputed credit transactions to total credit transactions is at least equal to the first threshold ratio and the number of time periods for the merchant being less than the first threshold number of time periods, including a predetermined

period of time in which the merchant must lower their ratio of disputed credit transactions to total credit transactions to avoid chargeback fees (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice. Note that the contents of the claimed notice have been considered, but are non-functional descriptive material in so far as the notice could contain any material and the claimed invention would still operate the same. As such, the contents of the notice have not been given patentable weight so as to distinguish Applicant's claimed invention from the prior art). (see rationale supporting obviousness and motivation to combine of claims 1 and 4 above)

In reference to Claim 20:

Cannon in view of Lee in view of Sharper and further in view of Rich teach:  
(Currently Amended) A non-transitory computer-readable medium having stored thereon sequences of instruction, the sequences of instruction including instruction which, if executed by a computer-based system, causes the computer-based system to perform operations comprising: determine, by the computer-based system, an average ratio of disputed credit transactions to total credit transactions (see Cannon, col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions) for each of a plurality of industry categories (see Sharper, par 11, note that chargeback characteristics vary from industry to industry. A ratio based on industry category is thus fairly suggested to accommodate the differences between industries); generate, by the computer-based system, a threshold ratio of disputed credit

transactions to total credit transactions ratio for a first of the industry categories based on at least a first factor comprising an automatically determined average ratio of disputed credit transactions to total credit transactions (see Cannon, col 3, lines 45-55 in combination with Sharper par 11, note that a threshold ratio is fairly suggested by the teaching that vendors with 'excessive' chargeback ratios are listed. The suggestion is fairly made by the need for there to be a measure -i.e. the predetermined threshold ratio-for determining what is 'excessive', note further the industry discussion of Sharper above) and a second factor based on a transaction value amount of each of the disputed credit transactions of the merchant ((Rich) in at least FIG. 5, FIG. 7; Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44; where Rich teaches gathering information to determine legitimacy of dispute for a particular transaction) determine, by the computer-based system, a ratio of disputed credit transactions to total credit transactions for a merchant in the first of the industry categories (see Cannon col 3, lines 45-55, in combination with Sharper par 11 ); and assess, by the computer-based system, a fee to the merchant in response to in response to the merchant's ratio of disputed credit transactions to total credit transactions is greater than the threshold ratio of disputed credit transactions to total credit transactions, the fee applied to each disputed transaction involving the merchant that causes the merchant to exceed the threshold ratio of disputed credit transactions to total credit transactions (Lee see par 19, note that both a fee per chargeback and a fine for too many chargebacks are both taught. The combination of these methods of penalizing chargebacks fairly suggests

charging a fee for each transaction that exceeds a threshold in so far as the fee per charge back suggests the 'for each' component and the fine for having too many suggests applying the fee above a threshold)  
(see rationale supporting obviousness and motivation to combine of claims 1 and 4 above).

In reference to Claim 22:

The combination teaches:

(Previously Presented) The method of claim 14 (see rejection of claim 14 above), wherein the first and second threshold ratios are lower for higher value transactions ((Lee) para 0127; wherein Le teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)  
(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 23:

The combination teaches:

(Currently Amended) The medium of claim 20 (see rejection of claim 20 above), wherein the threshold ratio is lower for higher value transactions ((Lee) para 0127; wherein Le teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different

one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)  
(see rationale supporting obviousness and motivation to combine of claim 1 above)

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MARY GREGG** whose telephone number is (571)270-5050. The examiner can normally be reached on 4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 5712726712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G./  
Examiner, Art Unit 3694

/KIRSTEN S APPLE/  
Primary Examiner, Art Unit 3694